



MARYLAND HEALTH CARE COMMISSION

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215
TELEPHONE: 410-764-3460 FAX: 410-358-1236

MARYLAND HEALTH CARE COMMISSION

Monday, February 9, 2009
Minutes

Via conference call

The meeting convened at 9:01 a.m.

Commissioners present: Chair Moon, and Commissioners Conway, Krumm, Lucht, McLean, Moore, Olsen, Ontaneda-Bernales, Petty, Pollak, Todd, Wilensky, and Worthington.

Item 1.

SB 71 – Maryland Health Care Commission – Certificate of Need Requirements

Rex Cowdry, M.D., Executive Director, explained that this Administration bill aligns the closure requirements of other health care facilities with those of a hospital. The bill was heard in Senate Finance and was presented for information only. Dr. Cowdry noted that the bill had been amended by the Finance Committee to allow the Commission to require a facility to hold an informational hearing on the closure.

Item 2.

ACTION: SB 79 – Health Insurance – Reform

Rex Cowdry, M.D., Executive Director explained that the Maryland Insurance Administration's departmental legislation would: (1) apply Maryland's current law regarding pre-existing condition exclusions to individual health insurance policies; (2) increase the required loss ratios for small group and individual health insurance policies, and group and individual Medicare policies; (3) create new disclosure requirements for group health insurance plans sold to association members who are residents of Maryland, and require carriers to offer individual health insurance to association members who are residents of Maryland; and (4) restrict the ability of carriers to rescind health insurance contracts and certificates of coverage.

Dr. Cowdry suggested that the Commission comment only on the proposal to increase the minimum medical loss ratio in the small group market from 75% to 85%, and recommend that the increase be phased in. Dr. Cowdry presented a draft letter that would support the bill in concept.

Commissioner discussion included the following points regarding an increase in Medical Loss Ratio: (1) that it would be pro consumer; (2) that MIA should have the ability to negotiate with plans; (3) that it

could impede competition in the marketplace; (4) that it could result in plans spending less on important things such as quality, disease management, and care management; (5) inquiries whether this issue has been studied; (6) the effect on new entrants

Chair Moon stated that she thought the Commission should support the concept of raising medical loss ratios but raise the issue on how high and fast we should go. Commissioner Pollak wanted to know if the Commission would take a second vote on an amendment to exclude new entrants and supporting this for the plans with the largest market share. It was decided there would be two votes.

Commissioner Pollak made a motion to support in concept the increasing medical loss ratios but to phase in the increase and to be cognizant of possible consequences of the increases. The motion was approved, with 10 Commissioners voting in favor of the motion, and 3 opposed.

Commissioner Pollak then made a motion to amend the language to give special consideration to new entrants and to those carriers with low market share. The motion was seconded by Commissioner Petty, approved by a vote of 12 to 1.

Item 3.

ACTION: HB 273/SB 394 – Autism – Health Insurance Mandate – Coverage of Autism Spectrum Disorder

Dr. Cowdry explained that the bill requires insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for the diagnosis of autism spectrum disorders and the treatment of autism spectrum disorders and limits coverage to a specified maximum benefit of \$50,000 annually for individuals under the age of 21. He presented a draft letter of information referencing that the Commission historically has not taken a position on mandates but provided information to the General Assembly if the proposed mandates had been previously studied.

Commission McLean made a motion to send the draft letter of information, which was seconded by Commissioner Lucht, and unanimously approved.

Item 4.

ACTION: SB 130 – Use of Prescription Information

Dr. Cowdry explained that the bill has two parts. The first forbids carriers from using prescription information as the sole basis for declining an insurance application. The second part prevents disclosure of any part of a prescription except to limited parties directly involved in prescribing, dispensing, and paying for the prescription. Dr. Cowdry further explained the second part poses a substantial problem for appropriate health information exchange and for certain kinds of health services research, in part because de-identified data is not excluded from the prohibition.

Commission Todd made a motion to oppose the bill, which was seconded by Commission Krumm, and unanimously approved.

Item 5.

ACTION: SB 380 – HMOs – Payment to Nonparticipating Providers

Commissioner Pollak recused himself from discussion of this bill.

Ben Steffen, Director of the Center for Information and Services, explained that the bill implements one or more recommendations of the Health Care Access and Reimbursement Task Force, increasing many

payments to non-participating physicians. The bill provides for payment that is the greater of: (1) 140% of Medicare rate as of 2008, inflated, or (2) 125% of the average rate paid to participating providers the previous year. Mr. Steffen pointed out this is a small step to align payments across providers.

Commissioner McLean questioned why MHCC should take a formal position on this bill. Mr. Steffen explained the reference points are updated and the basis for calculating the 125% figure is clarified as the average amount paid under contract, a figure that MHCC can determine and MIA can enforce. This gives the MHCC a formal role. Clarification was given by Mr. Steffen that we would be supporting the levels as well as our role.

A motion was made by Commissioner Ontaneda-Bernales to support the bill and was seconded by Commission Krumm, and unanimously approved.

Item 6.

ACTION: SB 439 – Prompt Pay – Modifications and Clarifications

Dr. Cowdry said that this bill clarifies some provisions for prompt payment of clean claims and sets penalties. Ben Steffen offered that this legislation basically clarifies some provisions in the law and recommended that the Commission support the bill.

Motion was made to support the bill by the Chair and seconded by Vice Chair Wilensky, and unanimously approved.

Item 7.

Dr. Cowdry briefly described three pieces of legislation for which the Commission will be providing a letter of information: (1) HB 89 – CON- High Performance Buildings; (2) SB 175 Mandated Benefits – Hospital or Home Visits following Mastectomy; and (3) HB 4 – Health Insurance Partnership.

The meeting was adjourned at 10:10 a.m.